

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND**

THE COALITION FOR EQUITY AND
EXCELLENCE IN MARYLAND HUGHER
EDUCATION, INC., *et al.*

v.

MARYLAND HIGHER EDUCATION
COMMISSION, *et al.*

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Civil Action No. CCB-06-2773

MEMORANDUM

Plaintiff The Coalition for Equity and Excellence in Maryland Higher Education, Inc. (“the Coalition”) sued the Maryland Higher Education Commission and the State of Maryland (collectively “the State”) in 2006 alleging violations of Title VI of the Civil Rights Act of 1964. The court held a six-week bench trial in 2012, and the court’s findings of fact and conclusions of law are forthcoming. Now pending are two evidentiary motions. The Coalition has filed a motion to admit five additional exhibits not offered during trial (ECF No. 359). The State has filed a motion asking the court to disregard evidence attached to the Coalitions’ response to the State’s proposed findings of fact and conclusions of law. (ECF No. 369). For the reasons set forth below, the Coalition’s motion will be granted in part and denied in part and the State’s will be denied.

I. Motion to Admit Five Additional Trial Exhibits

The Coalition seeks to admit five documents that were not introduced at trial. Each is addressed below:

1. **PTX 341 & PTX 473** are reports prepared by Morgan State University. The court is satisfied that the reports are authentic documents prepared by a state institution, and, accordingly, they are admissible as party admissions. However, they appear to be

duplicative of the numerous state reports already admitted in this case and no testimony was elicited as to their significance. Accordingly, the court will deny the Coalition's motion to admit these documents.

2. **PTX 773** is the State's brief that was filed in *Pearson v. Murray*, a 1935 case concerning racial segregation in Maryland. This exhibit is admissible as an ancient document and because it is a party admission, made by the State decades ago. *See Briggs v. Dalkon Shield*, 174 F.R.D. 369, 374 (D. Md. 1997). Thus, it will be admitted.
3. **PTX 369** is an ancient academic article from 1958 concerning desegregation in Maryland higher education. The document was referred to by the Coalition in opening statements and it is relevant because it is a contemporaneous examination of some of the historical issues raised in this case. Accordingly, the document will be admitted.
4. Finally, **PTX 168** is a demonstrative exhibit prepared by the Coalition that purports to summarize data contained in PTX 608, another exhibit that has already been admitted. Thus, the exhibit appears to be duplicative and unnecessary, and it will not be admitted.

II. Motion to Disregard Plaintiff's Post Trial Submission of Evidence

In its proposed findings of fact and conclusions of law (ECF No. 353), the State raised—after years of litigation—the argument that the Coalition (and all named plaintiffs) lacked standing to bring this suit. In its response to the State's proposed findings, the Coalition attached a variety of exhibits to rebut the State's sudden focus on standing. Given that the issue was never

raised at trial and it came as a surprise to the Coalition and the court alike, it is understandable that evidence and testimony introduced at trial did not, in most cases, speak directly to the standing issues raised by the State. Thus, the Coalition's submission of additional evidence to confront the State's new argument was appropriate under the circumstances, and the State's motion to exclude this evidence will be denied.

A separate Order follows.

3/29/13
Date

/s/
Catherine C. Blake
United States District Judge